

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOANNE HEARD,

Plaintiff(s),

CASE NUMBER: 04-72559
HONORABLE VICTORIA A. ROBERTS

v.

CHASE MANHATTAN BANK, et al.,

Defendant(s).

ORDER

This matter is before the Court on Plaintiff's Ex-Parte Motion for Temporary Restraining Order and Preliminary Injunction Pendente Lite and Complaint for Declaratory Judgment, Material Breach of Settlement Agreement and Damages. **[Doc. 18]**. For the reasons stated below, Plaintiff's motion is **DENIED** and her Complaint is **DISMISSED WITHOUT PREJUDICE**.

First, Plaintiff's motion for a temporary restraining order does not conform to FRCP 65(b). FRCP 65(b) states in relevant part:

A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if (1) **it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition**, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required.

(emphasis added). Plaintiff's complaint is not verified and she did not attach an affidavit

to her motion.

Second, Plaintiff failed to present argument and proofs on each element the Court must consider in deciding whether to grant either a temporary restraining order or a preliminary injunction: (1) the plaintiff's likelihood of success on the merits; (2) whether the plaintiff could suffer irreparable harm without the injunction; (3) whether granting the injunction will cause substantial harm to others; and (4) the impact of the injunction on the public interest. *Connection Distributing Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998). For these reasons, Plaintiff's motion for temporary restraining order and preliminary injunction is **DENIED**.

To the extent Plaintiff also characterizes her petition as a "Complaint for Declaratory Judgment," the Court finds that the petition was not filed in accordance with the Federal Rules of Civil Procedure and, therefore, it is not properly before the Court. Consequently, Plaintiff's "Complaint for Declaratory Judgment" is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

s/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: February 17, 2006

The undersigned certifies that a copy of this document was served on the attorneys of record and plaintiff by electronic means or U.S. Mail on February 17, 2006.

s/Linda Vertriest
Deputy Clerk